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***Act CLVI of 1997***  
***on Non-Profit Organizations***

In the interest of preserving the local traditions of non-governmental and non-profit oriented organizations, to simplify control regarding their public welfare activities and financial management, to promote their public welfare activities and to govern better their relations with the state budget, Parliament hereby passes the following Act:

**Chapter I**

**GENERAL PROVISIONS**

**Purpose of this Act**

*Section 1.*

The purpose of this Act is to define the forms of non-profit organizations, the conditions for the acquisition and termination of non-profit status, the order of operation and financial management of non-profit organizations, the regulations on records and reports, and the provisions on the legal supervision of operations and asset management.

**Forms of Non-Profit Organizations**

*Section 2.*

(1) The following Hungarian-registered entities may qualify as non-profit organizations:

*a)* non-governmental organizations, not including insurance associations, political parties and employers' and employees' advocate associations,

*b)* foundations,

*c)* public foundations,

*d)*

*e)* public corporations, if so permitted by the law on the establishment of such.

*f)* national associations of specific sports.

*g)* nonprofit business association.

*h)* the Hungarian Board of Accreditation for Higher Education, the Higher Education and Research Council and the Hungarian Rectors' Conference.

*i)* European groupings of territorial cooperation.

*j)* institutions of higher learning not financed from the central budget,

*k)* social cooperatives engaged in activities for the benefit of the public.

*l)* water associations.

(2) The organizations described in Paragraphs *a)-e)* of Subsection (1) may also qualify as non-profit organizations if simultaneously filing for non-profit status in the application for registration as required by the applicable legal regulations.

**Chapter II**

# CONDITIONS FOR RECEIVING NON-PROFIT STATUS AND THE BENEFITS GRANTED TO NON-PROFIT ORGANIZATIONS

## Conditions for Receiving Non-Profit Status

### *Section 3.*

An organization eligible to be qualified as a non-profit organization (hereinafter referred to as "organization") shall be granted non-profit status upon being registered as a non-profit or priority non-profit organization (hereinafter referred to as "registration under non-profit status").

### *Section 4.*

(1) For registration under non-profit status the organization's instrument of constitution shall include:

*a)* the list of public welfare activities, as specified in this Act, conducted by the organization and, if the organization has members, that it does not preclude parties other than its members from benefiting from its public welfare services;

*b)* a clause stating that the organization conducts entrepreneurial activities solely in the interest of and without jeopardizing its public welfare objectives;

*c)* a clause stating that the organization does not distribute its business profits, but rather utilizes such profits for the activities defined in its instrument of constitution;

*d)* a clause stating that the organization is not involved in direct political activities, furthermore, that it is independent from and does not provide financial aid to political parties.

(2) The instrument of constitution of a non-profit organization must also satisfy other requirements set forth in this Act (Section 7) in addition to those prescribed in Subsection (1).

### *Section 5.*

For registration under priority non-profit status, an organization's instrument of constitution shall include the following, in addition to the provisions of Section 4:

*a)* a clause stating that the organization performs public duties which, by virtue of law or in accordance with the provisions of other legal regulations based on the authorization granted by law, are to be provided by a state agency or by a local government, and furthermore

*b)* a statement that the organization publishes the principle data and information on its activities set forth in its instrument of constitution in a media publication with local or national circulation.

## Benefits Granted to Non-Profit Organizations, Supporters of Non-Profit Organizations and to Users of the Services of Non-Profit Organizations

### *Section 6.*

(1) Pursuant to Act LXXXI of 1996 on Corporate Tax and Dividend Tax, Act CXVII of 1995 on Personal Income Tax, Act XCIII of 1990 of Duties, Act C of 1990 on Local Taxes and Act C of 1995 on Customs Law, Customs Proceedings and Customs Administration, as well as other applicable legal regulations, the following entitlements, in the extent and under the conditions prescribed therein, shall be granted

*a)* to a non-profit organization:

1. corporate tax exemption on the activities set forth in its instrument of constitution,
2. corporate tax relief on its entrepreneurial activities,
3. allowances on local taxes,

4. discount rates on duties,
  5. customs allowances,
  6. other benefits described in legal regulations,
- b)* personal tax exemption for the users of services provided by a non-profit organization as a designated provision, in respect of the service received,
- c)* corporate tax relief or personal tax relief to the supporters of non-profit organizations in respect of contributions provided for the objective(s), as set forth in its instrument of constitution, of a non-profit organization (hereinafter referred to as "donation"),
- d)* special benefits, in respect of recurrent donations, to the supporters described in Paragraph *c)*, as of the second year of providing such donations.
- (2)
- (3) A non-profit organization which has public debts as described in the Act on the Rules of Taxation shall not be eligible for the aforementioned entitlements.

## Chapter III

# OPERATIONAL AND MANAGEMENT SYSTEM OF NON-PROFIT ORGANIZATIONS

## Regulations Pertaining to Public Welfare Oriented Functions

### *Section 7.*

- (1) The meetings of the supreme body, or if not the same, the meetings of the administrative and representative organ (hereinafter jointly referred to as "executive body") shall be open to the public.
- (2) If the supreme body of the non-profit organization is made up of several members (persons), the instrument of constitution shall lay down the rules
- a)* on the intervals of meetings of the executive body, to be held at least once a year, on the procedure of calling such meetings and notification of the agenda, on public access and quorum of the meetings and the procedure of adopting resolutions,
- b)* on cases of conflict of interest of the non-profit organization's executive officers,
- c)* on the establishment, jurisdiction and operation of a separate body, other than the executive body, if such is required to be established or appointed to supervise the operations and financial affairs of the non-profit organization (hereinafter referred to as "supervisory body"), furthermore
- d)* on the manner of approval of the non-profit organization's annual report.
- (3) The instrument of constitution or, by virtue of authorization granted therein, the internal regulations of a non-profit organization shall prescribe
- a)* to have records maintained to identify the contents, date and scope of decisions passed by the executive body, and the numerical ratio of those (including names where possible) in support of or against such decisions,
- b)* the manner of announcing or publishing the decisions of the executive body to those concerned,
- c)* the order of review of documents related to the operation of the non-profit organization, and
- d)* the operation of the non-profit organization, the method of using the services and the publication of its annual report.
- (4) Where the supreme body consists of a single member (person), Subsection (1) of Section 168 of the Companies Act shall apply with the exception that such member (person) shall call a meeting prior to adopting a decision so as to hear the opinion of the supervisory body and that of the administrative and representative body, if other than the supreme body, or shall obtain their opinion in writing. Said written opinions and the records of the aforementioned meetings shall be open to the public.

(5) Where the supreme body consists of a single member (person), the instrument of constitution shall govern

- a)* the manner of exercising the right of opinion specified in Subsection (4),
- b)* the issues referred to in Paragraph *a)* of Subsection (2), apart from the question of quorum, if the aforementioned opinion is conveyed in a meeting, and
- c)* the issues referred to in Paragraphs *b)-d)* of Subsection (2) and in Subsection (3).

#### *Section 8.*

(1) A person may not take part in an executive body resolution, if, by virtue of such resolution, he or a close relative [Paragraph *b)* of Section 685 of the Civil Code] or spouse (hereinafter jointly referred to as "relative") of his

- a)* is released from obligations or liabilities, or
- b)* receives any other benefit, or is otherwise interested in the legal transaction. A non-pecuniary service provided by a non-profit organization as a designated provision which may be used by anyone without restriction, or a designated provision provided, by virtue of membership, by a non-governmental organization to its member in accordance with its instrument of constitution shall not be construed as a benefit.

(2) A person

- a)* who is the chairperson or member of the executive body,
- b)* who is in the employment of the non-profit organization to perform work other than his official duties or is in any other work-related legal relationship, unless otherwise provided for by law,
- c)* who benefits from a designated provision of the non-profit organization, not including a non-pecuniary service provided to and used by anyone without restriction and a designated provision provided, by virtue of membership, by a non-governmental organization to its member in accordance with its instrument of constitution, furthermore
- d)* who is a relative of any of the persons described in Paragraphs *a)-c)*  
may not be the chairperson or member, or auditor of the supervisory body.

#### *Section 9.*

(1) A person who has been in a management position, for at least one year within two years prior to the dissolution of a non-profit organization which has any public debt according to the Act on the Rules of Taxation, shall not be allowed to take office in a management position of another non-profit organization for two years following the aforementioned dissolution.

(2) A senior officer, or person nominated as such, shall be required to notify all non-profit organizations in advance if he is employed in the same position at another non-profit organization at the same time.

#### *Section 9/A.*

#### *Section 10.*

(1) If the annual revenues of a non-profit organization exceed five million HUF, a supervisory body shall be created, separately from the executive body, even if such obligation does not exist by virtue of some other legal regulation.

(2) The supervisory body shall establish its own procedural order.

#### *Section 11.*

(1) The supervisory body shall oversee the operations and financial management of the non-profit organization. In this function, it may request reports from the senior officers and information from the

employees of the organization, furthermore it may review and audit the non-profit organization's books and records.

(2) Members of the supervisory body may participate with the right of consultation in the meetings of the non-profit organization's executive body, or shall do so if expressly stipulated by legal regulation or in the instrument of constitution.

(3) The supervisory body shall notify, and request a meeting of the executive body with the power to act in the event of finding

*a)* any legal violation in the course of operation of the organization or any other event (omission) otherwise causing severe injury to the interests of the organization, the termination or abatement of which requires the decision of the executive body with the power to act;

*b)* any fact substantiating some degree of liability of a senior officer.

(4) The executive body with the power to act shall be convened at the initiative of the supervisory body, within thirty days of the filing of such. In the event of failure to convene such meeting within the aforementioned deadline, convening such meeting shall fall within the jurisdiction of the supervisory body.

(5) If the body with the power to act fails to implement the measures necessary to restore legal operation, the supervisory body shall be required to notify the agency exercising legal supervision without delay.

## **Rules for Soliciting Charitable Donations**

### *Section 12.*

(1) Solicitation of charitable donations in the name of or on behalf of a non-profit organization may not lead to any harassment of or nuisance to sponsors or other persons, nor any violation of personal rights and human dignity.

(2) Solicitation of charitable donations in the name of or on behalf of a non-profit organization may only be carried out in possession of a written authorization by the non-profit organization.

### *Section 13.*

Donations to a non-profit organization shall be registered at book value or, in the absence of such, at customary market value.

## **General Provisions on Financial Management**

### *Section 14.*

(1) Non-profit organizations shall not distribute business profits, as such shall be applied for the activities defined in the instrument of constitution.

(2) With the exception of normative subsidies, a non-profit organization may receive subsidies from the subsystems of the state budget only on the basis of a written agreement. Such agreement shall stipulate the conditions and methods of accounting for such subsidies.

(3) The availability of the subsidies described in Subsection (2), and the extent and conditions of such, shall be made public through the media. The designated provisions provided by a non-profit organization shall be public information and accessible by all parties.

(4) Non-profit organizations may not extend any designated provisions to management personnel and to sponsors, or to the relatives of such persons, with the exception of services which may be used by anyone without restriction and designated provisions provided, by virtue of membership, by non-governmental organizations.

### *Section 15.*

(1) A non-profit organization shall be entitled to award any of its designated provisions by way of tender as per the rules set forth in its instrument of constitution. In this case the tender may not prescribe any conditions from which it is apparent, considering all applicable circumstances of the case, that the tender has already been decided (fictitious tender).

(2) No designated provision may be awarded on the basis of fictitious tender.

#### *Section 16.*

(1) Non-profit organizations may not issue bills of exchange or other debt securities.

(2) A non-profit organization, not including non-profit corporations,

*a)* may not borrow business loans, for improvement purposes, in an extent that may jeopardize its public welfare activities;

*b)* may not pledge any subsidy received from the subsystems of the state budget as collateral for a loan, and may not apply such as a loan payment.

#### *Section 17.*

Non-profit organizations engaged in investment activities shall draw up their investment regulations, which shall be approved by their supreme body.

## **Books and Records**

#### *Section 18.*

(1) Non-profit organizations shall register their revenues and expenses derived from non-profit and business activities separately.

(2) The following shall be deemed revenues of a non-profit organization:

*a)* contributions and donations received from its founder, from the subsystems of the state budget or from any other sponsor for its public welfare objectives or to cover operating expenses;

*b)* revenues generated by its non-profit activities or revenues directly associated with such;

*c)* revenues generated by other designated activities or revenues directly associated with such;

*d)* revenues from investment of the organization's assets;

*e)* membership fees;

*f)* other revenues defined by law;

*g)* revenues from entrepreneurial activities.

(3) The following shall be deemed expenditures of a non-profit organization:

*a)* direct costs incurred in connection with public welfare activities (expenses, expenditures);

*b)* direct costs incurred in connection with other designated activities (expenses, expenditures);

*c)* direct costs incurred in connection with business activities (expenses, expenditures);

*d)* indirect costs incurred in connection with public welfare activities and other business activities (expenses, expenditures), which shall be divided in proportion to the respective revenues.

(4) As for other aspects, the relevant provisions on accounting shall be observed regarding the books and records of non-profit organizations.

## **Reporting Regulations**

#### *Section 19.*

(1) Non-profit organizations shall prepare a report on public welfare activities simultaneously upon approval of the annual report.

(2) Approval of the report on public welfare activities shall fall within the exclusive jurisdiction of the supreme body.

(3) Reports on public welfare activities shall contain the following:

- a)* the accounting report;
- b)* the utilization of budgetary subsidies;
- c)* a statement on the utilization of property assets;
- d)* a statement on designated provisions;
- e)* the amounts of subsidies received from budgetary organs, off-budget state funds, local governments or associations of community local governments, or from agencies of such;
- f)* the value or amount of any remuneration extended to the senior officers of the non-profit organization;
- g)* a brief description of the public welfare activities.

(4) Reports on public welfare activities by non-profit organizations shall be available for review by the public, and anyone may make copies of such at his own expense.

(5) Nonprofit organizations shall publish their report on public welfare activities as referred to in Subsection (2) on their official website by 30 June following the year to which it pertains, or in some other forum that is accessible by the general public.

(6) The provision set forth in Paragraph *a)* of Subsection (3) shall not apply to the application of accounting regulations pertaining to the obligation of filing, depositing and publication of annual reports.

#### *Section 20.*

Upon termination of its non-profit status, a non-profit organization shall be liable to settle all its outstanding public debts and to perform its other contractual obligations for public services for the applicable period of time.

### ***Chapter IV***

## ***SUPERVISION AND REGISTRATION OF NON-PROFIT ORGANIZATIONS AND COURT PROCEEDINGS PERTAINING TO NON-PROFIT ORGANIZATIONS***

### **Supervision of Non-Profit Organizations**

#### *Section 21.*

Public benefit organizations shall be supervised by the state tax authority for tax purposes, by the State Audit Office for auditing the appropriation of budgetary subsidies, by the internal control body described in specific other legislation for monitoring the appropriation of financial aid received from the central government or from local authorities, or from international sources, and, in accordance with the applicable provisions, by the public prosecutor's office - with regard to public benefit operations - for judicial purposes.

### **Regulations Pertaining to Proceedings for the Registration, Recategorization and Cancellation from the Register of Non-Profit Organizations**

#### *Section 22.*



(1) Applications for registration under nonprofit status, for reassignment between nonprofit categories or for cancellation from the register shall be submitted to the court competent for registration, or if the organization in question is to be registered by a body other than the court, submitted to this body (hereinafter referred to collectively as "court").

(2) Applicants shall indicate the requested non-profit category in the application for registration in the register of non-profit organizations. Only one non-profit category may be indicated in the application.

(3) The court shall decide on the registration, re-categorization and cancellation of a non-profit organization in non-contentious proceedings, with priority, and shall send its resolution to the public prosecutor's office as well.

(4) A non-profit organization shall file a petition for cancellation of its non-profit status, or reassignment to a lower non-profit category, within 60 days if it fails to satisfy the conditions set forth in Sections 4-5 of this Act.

#### *Section 23.*

The public prosecutor's office may file to have the non-profit status of a non-profit organization canceled, or for reassignment to a lower non-profit category, with the court competent for registration if the operation and asset management of such non-profit organization violates the provisions set forth in this Act, in its instrument of constitution or in the internal regulations drawn up on the basis of such, and if the organization in question fails to remedy the situation in spite of notification by public prosecutor's office.

## **Court Registration of Non-Profit Organizations**

#### *Section 24.*

(1) Upon registration in the register of non-profit organizations, the dates of acquisition, alteration or cancellation of non-profit status shall be added to the data and information of the organization on record.

(2) The information in the court register on non-profit organizations, as described in Subsection (1), shall be available to the public.

#### *Section 25.*

Data managed on the basis of this Act may be used for statistical purposes and may be disclosed for statistical use in such a manner which precludes identification of the person concerned.

## **Chapter V**

## **CLOSING PROVISIONS**

### **Interpretative provisions**

#### *Section 26.*

For the purposes of this Act

*a) "designated provision"* means any pecuniary and non-pecuniary service provided within the framework of the non-profit organization's designated activity;

*b) "designated activity"* means all activities directly associated with the achievement of the objective set forth in the instrument of constitution;

*c) "public welfare activities"* means the following designated activities as set forth in the organization's instrument of constitution for the benefit of society and for the common interests of individuals:

1. health preservation, disease prevention, therapeutic and medical rehabilitation activities,

2. social activities, family counseling, care for the elderly,
3. scientific activities, research,
4. school instruction and education, personal ability development, dissemination of knowledge,
5. cultural activities,
6. preservation of cultural heritage,
7. preservation of historical monuments,
8. nature preservation, animal protection,
9. environmental protection,
10. children and juvenile protection, children and juvenile advocate services,
11. promotion of equal opportunity within society for underprivileged groups,
12. protection of human and civil rights,
13. activities in connection with ethnic minorities living in Hungary and with Hungarian nationals living outside of Hungary,
14. sports, not including sports activities involving professionals and those performed under contract within the framework of a civil law relationship,
15. protection of public order and traffic safety, voluntary fire fighting, rescue, and disaster preparedness and response activities,
16. consumer protection,
17. rehabilitative employment,
18. promotion of employment and training for underprivileged groups in the labor market, including placement by the hiring-out of workers, and associated services,
19. promotion of the country's Euro-Atlantic integration,
20. services provided to and available solely for non-profit organizations;
21. activities associated with flood and water damage control;
22. activities associated with the construction, maintenance and operation of roads, bridges and tunnels;
23. crime prevention and protection of victims;
24. the supply of electronic public services as basic services.

d) "*direct political activities*" means political party functions, and delegation of nominees in parliamentary, county and Budapest municipal government elections;

e) "*management personnel*" means the persons described in the organization's instrument of constitution as officers in management position or otherwise vested with decision-making powers, and persons authorized to represent the organization and to dispose over its current account by virtue of the instrument of constitution or on the basis of a contract or a resolution by the supreme body of the organization;

f) "*supreme body*" means the executive body (organization) of a foundation or public foundation, the supreme body of a non-governmental organization, the meeting of members for nonprofit unlimited partnership and nonprofit limited partnerships, the members' meeting for public companies, the general meeting of a nonprofit public limited liability company, and the sole member (shareholder) for single-member nonprofit business associations;

g) "*instrument of constitution*" means the statutes of a non-governmental organization, the deed of foundation of a foundation or public foundation, articles of association (statutes, deed of foundation) of a nonprofit business association;

h) "*non-pecuniary contribution*" means the permanent or temporary gratuitous conveyance or endorsement, in full or in part, of a marketable thing or an intellectual product having pecuniary value, or a right of pecuniary value in part or in full, or the provision of a service;

i) "*tender*" means an open or invitational announcement to describe the conditions for the comparison of bidders, the designated provision to be awarded, all major requirements for evaluation and assessment (including dates of submission and evaluation, and those having powers to evaluate the bids);

j) "*contribution*" means monetary and non-monetary donations and grants;

k) "*investment activity*" means the activities involving the investment of the non-profit organization's own assets aimed for the acquisition of securities, right of pecuniary value derived from membership in a company, real property or some other property item requiring long-term investment;

l) "*entrepreneurial activity*" means the business activities aimed for or resulting in the earning of income and/or the acquisition of assets, not including designated activities which generate revenues and contributions provided for public welfare activities;

m) "*executive officer*" means the trustee of a foundation or public foundation, and the chairperson or member of the supervisory body (organization) of the managing body of such, furthermore, if the managing body (organization) of a foundation is a separate legal entity, unincorporated organization or a state agency, the single leader of such managing body (organization) or the member of its body acting under such authority; the chairperson and member of the administrative and representative body or supervisory body of a non-governmental organization; the managing partner of a nonprofit unlimited partnership or a nonprofit limited partnership; the managing director of a nonprofit private limited liability company; the chairperson and member of supervisory board of a nonprofit public limited liability company; and the person in the employ of an organization registered under nonprofit status or in any other work-related legal relationship defined in the instrument of constitution as having exclusive powers;

n) "*recurrent donation*" means a monetary contribution provided on the basis of an agreement between a non-profit organization and its sponsor (includes the conveyance of securities in respect of sponsors who are not private individuals), if such sponsor agrees to provide the donation in the year when the agreement is concluded (amended) and in at least three years following thereafter at least once each year, in the same or larger amount, without any consideration, whereby it shall not be construed consideration if the non-profit organization cites the name and/or activity of the sponsor in the course of providing public welfare services.

#### *Section 27.*

(1) This Act shall enter into force on 1 January 1998. An organization established for conducting either of the public welfare activities listed in Paragraph c) of Section 26 which is already registered at the time of this Act entering into force and has submitted its application for registration in the register of non-profit organizations by 1 June 1998, shall be authorized, as of 1 January 1998, to act under the non-profit category indicated in the application until the resolution described in Subsection (3) of Section 22 becomes definitive, or until such resolution is rejected.

(2) Organizations founded after 1 January 1998 shall be entitled to take advantage of the tax benefits and exemptions granted to non-profit organizations as of the day of registration, if also registered under non-profit status by the last day of the year when registered.

(3) An organization established using the assets received from the subsystems of the state budget, or receiving budgetary subsidies on a regular basis according to its instrument of constitution, shall apply for registration under non-profit status by the deadline described in Subsection (1). In the event of failure to comply, the budgetary subsidies shall be suspended, and the dissolution of the organization may also be requested in accordance with the applicable regulations.

(4) The Government is hereby authorized to establish special provisions on the conclusion of contracts with non-profit organizations for the performance of services falling under the scope of the Act on Public Procurements.

(5) The obligation of registration under Subsection (3) shall not apply to bodies engaged in government reserve management functions.